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No. 83-899

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

In re EDWARD RONWIN,

Petitioner.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF MANDAMUS TO THE SUPREME COURT OF ARIZONA

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ARGUMENT

Respondent obfuscates. Petitioner, (Ronwin) does not challenge Respondent's determination of "each application for admission to the Bar * * * on its own merit," Res. Br. at 9. What Ronwin challenges is the continued denial of Ronwin's applications for bar admission without (1) a clear statement of the charges to be heard; without (2)opportunity for pre-hearing discovery; without (3) an evidentiary hearing at

which Ronwin can call his witnesses and cross-examine any adverse witnesses and items of evidence; and, without (4) an impartial decisionmaker.

The reason the actual denial of the 10th application is not directly challenged (Res. Br. at 8) is that there was no statement of the specific charges against Ronwin and no hearing whatsoever; merely an order of denial (Pet. App. 1). What, therefore, is reviewable is not an uninformative order of Respondent merely stating that Ronwin's 10th application is "denied," which creates no record for this, or any court, to operate upon, but the procedure whereby Respondent refuses to allow all due process in making its denial. That contravenes this Court's holding in Willner v. Comm. on Character & Fitness, 373 U.S. 96, 103-105, 83 S.Ct. 1175, 1180-1181 (1963).

When Respondent writes (Res. Br. at 19): "The procedure condemned in Willner bears

no relationship to that accorded Petitioner," Respondent distorts. As in Willner, Ronwin's 10th application was denied without real notice of charges (or any for that matter), and without any hearing whatsoever. Likewise, the allegations that Petitioner was noticed "of the scope of Respondent's review of the facts," (Res. Br. at 19)(with respect to Ronwin's 9th application--which is not in issue herein), are false. No specific charges were given to Ronwin with respect to said 9th application and, definitely none were given with respect to the 10th application which gave rise to the Petition herein. The additional description of the "due process" allegedly accorded to Ronwin (again with respect to the 9th, not 10th application)(Res. Br. at 20), is itself an admission that due process was denied in the procedure by which the 9th application was determined and, certainly as to the 10th application, the only "due process"

was to have the application filed and then declared "denied," without any intervening hearing or other procedure.

Contrary to Respondent's position (Res. Br. at 10), the issuance of the Writ will not be an "advisory opinion;" but, also contrary to Respondent's position (Res.Br. at 12), the issuance of the Writ will "compel an inferior court to exercise its authority when it is its duty to do so." The issuance of the Writ will require the Arizona Supreme Court to honor this Court's declarations in Willner, supra which bar denials of bar applications without evidentiary hearings and without the right to call and to cross-examine witnesses and to have an impartial decisionmaker. Again, contrary to Respondent's posture (Res.Br. at 12) and to the extent that the Arizona Supreme Court denied Ronwin's 10th application without due process, said Court acts "beyond its jurisdiction."

The Writ of Mandamus will stop the practice of the Arizona Supreme Court from refusing to allow evidentiary hearings with prior specific notice of charges and with prior opportunity for discovery and with the other elements of due process, when said Court determines Ronwin's application(s).

That will be so whether or not said Writ requires that the order denying Ronwin's 10th application be vacated (Pet. App. at 1), or addresses future applications by Ronwin or any other party.

Lastly, in its discretion, this Court may consider the Petition for the Writ of Mandamus to be one for a Writ of Certiorari.

CONCLUSION

For the foregoing reasons, the Writ of Mandamus should be granted.

Respectfully submitted

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JAN., 1984